IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Crl.Rev.Pet.No. 2919 of 2007()

CRA.264/2006 of ADDL.SESSIONS COURT-III, KOZHIKODE
CC.132/2003 of CHIEF JUDICIAL MAGISTRATE COURT, KOZHIKODE

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REVN. PETITIONER: APPELLANT/ACCUSED

M.JAYARAJ, S/O MOOKKAN,
KALLUTHANKADAVU COLONY, HOUSE NO.8B,
KASABA AMSOM, DESOM, KOZHIKODE.

BY ADV. SRI.R.SUDHISH
SMT.M.MANJU

RESPONDENTS: RESPONDENT/COMPLAINANT AND STATE

STATE OF KERALA, REPRESENTING
S.I. OF POLICE, KASABA POLICE STATION,
KOZHIKODE, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2919 OF 2007

Dated this the 6th day of August, 2007

O R D E R

The revision petitioner, who was the accused in C.C.No.132/2003 on the file of the CJM, Kozhikode for an offence punishable under section 324 IPC, challenges the conviction entered and the sentence passed against him by the courts below. The trial court sentenced him to undergo rigorous imprisonment for one year. The appellate court reduced the sentence to rigorous imprisonment for three months and to pay a compensation of Rs.5,000/- (Rupees five thousand only) to PW1, the injured.

2. Eventhough the learned counsel for the revision petitioner assailed the findings recorded by the courts below also on the ground that C.C. No.88/2002 which was the main case in the occurrence ought to have been tried by the same court in quick succession along with the present case, the courts below have held that the time of occurrence in C.C.No.88/2002 is different from the present case and C.C.No.88/02 does not appear to be the main case of which the present case is a counter. At any rate, C.C.No.88/02 having been disposed of long prior to the present case without any demur from the revision petitioner, it is too late in the day for him to contend that both the cases should have

been treated as case and counter and disposed of in quick succession.

3. The case of the prosecution of the present occurrence is as follows:-

On 19.3.1999 at about 8.45 a.m. the accused voluntarily caused hurt to the de facto complainant Murukan(PW1) by stabbing him with a knife in the left axila and he has thereby committed an offence under section 324 IPC.

4. The courts below have concurrently found that the revision petitioner/accused committed the above act. The said finding has been reached after an evaluation of the oral and documentary evidence. The courts below have also appreciated the medical evidence to arrive at the above conclusion, the basis for which is the testimony of PW1, the injured and PW3, a neighbour. Eventhough the revision petitioner contended that C.C.No.88/02 was the case of which the present case was the counter, he was not successful in persuading the trial court in this behalf. The finding recorded by the courts below is a pure finding of fact recorded after an appreciation of the oral and documentary evidence. In the absence of any infirmity in the appreciation of the evidence, it is not possible for this court, sitting in the rarefied revisional jurisdiction, to re-appreciate the evidence and come to a different conclusion. The conviction was rightly recorded against the revision petitioner.

5. What now remains to be considered is the adequacy or otherwise of the sentence imposed on the revision petitioner. Having regard to the facts and circumstances of the case, I do not think that the revision petitioner deserves penal servitude by way of incarceration for the offence under section 324 IPC and that interests of justice will be adequately met by directing him to suffer imprisonment till the rising of the court and to pay an appropriate amount by way of compensation to PW1, the injured. Accordingly, the sentence imposed on the revision petitioner by the lower appellate court is set aside and instead, he is directed to undergo imprisonment till the rising of the court and to pay a sum of Rs.10,000/- (Rupees ten thousand only) by way of compensation to PW1 under section 357(3) Cr.P.C. within 45 days. On failure to pay the compensation as aforesaid, he shall suffer simple imprisonment for two months by way of default sentence.

This revision is disposed of as above.

(V. RAMKUMAR, JUDGE)

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